

AMENDED IN SENATE JUNE 19, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1045

Introduced by Assembly Member Leslie

February 20, 2003

An act to amend ~~Section 114260~~ *Sections 114260 and 114265 of the Health and Safety Code*, relating to mobile food facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1045, as amended, Leslie. Mobile food facilities: ~~churros~~.

The California Uniform Retail Food Facilities Law provides for the regulation of health and sanitation standards for retail food facilities by the State Department of Health Services and for local enforcement of these provisions. Violation of any of these provisions is a crime.

Existing law establishes standards for a mobile food facility and prohibits cooking processes, as defined, on a mobile food facility.

This bill would exempt the preparation of churros from the prohibition against cooking processes on a mobile food facility, *but would require that ground or floor surfaces where cooking processes occur meet specified requirements.*

Existing law requires mobile food facilities not under a valid public health permit as of January 1, 1997, on which nonpackaged ready-to-eat food is sold, or offered for sale, to be constructed and equipped in compliance with specified requirements.

This bill would, in defining those facilities to which these requirements apply, eliminate the condition that the food be ready-to-eat, and would require these facilities to have a hand washing facility and a utensil washing sink, as prescribed.

By imposing additional requirements upon certain mobile food facilities, the bill would change the definition of a crime, thus imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 114260 of the Health and Safety Code
2 is amended to read:

3 114260. (a) Mobile food facilities that are limited to the
4 handling of prepackaged nonpotentially hazardous food and
5 produce shall comply with subdivisions (a) to (i), inclusive, of
6 Section 114265.

7 (b) Mobile food facilities that handle prepackaged potentially
8 hazardous food, whole fish and whole aquatic invertebrates, or the
9 bulk dispensing of nonpotentially hazardous beverages shall
10 comply with subdivisions (a) to (m), inclusive, of Section 114265.
11 For purposes of this section, tamales shall be considered
12 prepackaged if dispensed to the customer in its original, inedible
13 wrapper.

14 (c) Mobile food facilities that handle any of the following foods
15 shall comply with subdivisions (a) to (t), inclusive, of Section
16 114265:

17 (1) Nonprepackaged nonpotentially hazardous food requiring
18 no preparation other than heating, baking, popping, blending,
19 assembly, portioning, or dispensing.

20 (2) Preparation of nonpotentially hazardous ingredients into a
21 nonpotentially hazardous food.

22 (3) Churros, hot dogs, cappuccino and other coffee-based or
23 cocoa-based beverages that may contain cream, milk, or similar
24 dairy products, and frozen ice cream bars that meet the
25 requirements of subdivision (b) of Section 114270.



(d) Only those foods described in this section may be prepared or dispensed on a mobile food facility.

(e) (1) Except as provided in paragraph (2), cooking processes, including, but not limited to, barbecuing, broiling, frying, and grilling are not permitted on a mobile food facility.

(2) The preparation of churros is exempt from the prohibition in paragraph (1).

SEC. 2. Section 114265 of the Health and Safety Code is amended to read:

114265. (a) The name, address, and telephone number of the owner, operator, permittee, business name, or commissary shall be legible, clearly visible, and permanently indicated on at least two sides of the exterior of the mobile food facility. The name shall be in letters at least 8 centimeters (3 inches) high and shall have strokes at least 1 centimeter ($\frac{3}{8}$ inch) wide, and shall be of a color contrasting with the mobile food facility exterior. Letters and numbers for address and telephone numbers shall not be less than 2.5 centimeters (one inch) high.

(b) Mobile food facility equipment, including, but not limited to, the interior of cabinet units and compartments, shall be designed so as to, and made of materials that, result in smooth, readily accessible, and easily cleanable surfaces. Unfinished wooden surfaces are prohibited. Construction joints shall be tightly fitted and sealed so as to be easily cleanable. Equipment and utensils shall be constructed of durable, nontoxic materials and shall be easily cleanable.

(c) During operation, no food intended for retail shall be conveyed, held, stored, displayed, or served from any place other than a mobile food facility except for the restocking of product in a manner approved by the enforcement agency.

(d) Notwithstanding subdivision (k), food products remaining after each day's operation shall be stored only in an approved commissary or other approved facility.

(e) During transportation, storage, and operation of a mobile food facility, food, food-contact surfaces, and utensils shall be protected from contamination. Single-service utensils shall be individually wrapped or in sanitary containers or approved sanitary dispensers, stored in a clean, dry place until used, handled in a sanitary manner, and used only once. Food-contact surfaces

1 and utensils shall be cleaned and sanitized in accordance with
2 subdivisions (i), (j), and (k) of Section 114090.

3 (f) All food displayed, sold, or offered for sale from a mobile
4 food facility shall be obtained from an approved source.

5 (g) Food condiments shall be protected from contamination
6 and, where available for customer self-service, be prepackaged or
7 available only from approved dispensing devices.

8 (h) Mobile food facilities shall be operated within 60 meters
9 (200 feet) of approved and readily available toilet and hand
10 washing facilities or as otherwise approved by the enforcement
11 agency to ensure restroom facilities are available to facility
12 employees.

13 (i) All mobile food facilities shall operate out of a commissary
14 or other approved facility in accordance with Article 12.5
15 (commencing with Section 114300). Mobile food facilities shall
16 report to the commissary or other approved facility at least once
17 each operating day for cleaning and servicing operations. Mobile
18 food facilities shall be properly stored, cleaned, and serviced at, or
19 within, a commissary or other facility as approved by the
20 enforcement agency so as to provide protection from unsanitary
21 conditions.

22 (j) Potentially hazardous food shall be maintained at or below
23 5 degrees Celsius (41 degrees Fahrenheit) or at or above 60 degrees
24 Celsius (140 degrees Fahrenheit) at all times in accordance with
25 Section 113995.

26 (k) Potentially hazardous food held at or above 60 degrees
27 Celsius (140 degrees Fahrenheit) on a mobile food facility shall be
28 destroyed at the end of the operating day.

29 (l) (1) Potable and wastewater tanks may be constructed so as
30 to be removed from within the approved mobile food facility
31 compartments for refilling and dispensing purposes only. All retail
32 food operations shall cease during removal and replacement of
33 tanks.

34 (2) All wastewater from a mobile food facility shall be drained
35 to an approved wastewater receptor at the commissary or other
36 approved facility.

37 (3) Refilling of a potable water tank shall be conducted through
38 an approved and sanitary method.

(4) Storage of any prefilled potable water tank, or empty and clean water tanks, or both, shall be maintained within the cart, or in an approved manner that will protect against contamination.

(m) All new and replacement gas-fired appliances shall meet applicable ANSI standards. All new and replacement electrical appliances shall meet applicable Underwriters Laboratory standards. However, for units subject to Part 2 (commencing with Section 18000) of Division 13, these appliances shall comply with standards prescribed by Sections 18028, 18029.3, and 18029.5.

(n) Bulk beverage dispensers shall only be filled at the commissary or other facility approved by the enforcement agency unless a hand washing sink as described in paragraph (1) of subdivision (p) is provided.

(o) Where nonprepackaged food is handled for display or sale, the mobile food facility shall be equipped with a food compartment that completely encloses all food, food-contact surfaces, and the handling of ready-to-eat food. The opening to the food compartment shall be sized as appropriate to the food handling activity without compromising the intended protection from contamination, and shall be provided with tight-fitting doors that, when closed, protect interior surfaces from dust, debris, insects, and other vermin.

(p) Mobile food facilities, not under a valid public health permit as of January 1, 1997, on which nonprepackaged ~~ready-to-eat~~ food is sold, or offered for sale, shall be constructed and equipped in compliance with all of the following:

(1) A minimum of a one-compartment metal sink, hand washing cleanser and single-service towels in approved dispensers shall be provided. The sink shall be furnished with hot running water that is at least 49 degrees Celsius (120 degrees Fahrenheit) and cold running water that is less than 38 degrees Celsius (101 degrees Fahrenheit) through a mixing-type faucet that permits both hands to be free for washing. The sink shall be large enough to accommodate the cleaning of the largest utensils washed. The sink, hand washing cleanser, and single-service towels shall be located as to be easily accessible and unobstructed for use by the operator in the working area. The minimum water heater capacity shall be one-half gallon.

(2) The potable water tank and delivery system shall be constructed of approved materials, provide protection from

1 contamination, and shall be of a capacity commensurate with the
2 level of food handling activity on the mobile food facility. The
3 capacity of the system shall be sufficient to furnish enough hot and
4 cold water for the following: steamtable, utensil washing and
5 sanitizing, hand washing, and equipment cleaning. At least 18
6 liters (5 gallons) of water shall be provided exclusively for hand
7 washing. Any water needed for other purposes shall be in addition
8 to the 18 liters (5 gallons) for hand washing.

9 ~~(3) (i)-(A)~~ The wastewater tank or tanks shall have a
10 minimum capacity that is 50 percent greater than the potable water
11 tank or tanks supplying the hand and utensil washing sink. In no
12 case shall this wastewater capacity be less than 28 liters (7.5
13 gallons).

14 ~~(ii)-~~

15 ~~(B)~~ Mobile food facilities utilizing ice in the storage, display,
16 or service of food or beverages shall provide an additional
17 minimum wastewater holding tank capacity equal to one-third of
18 the volume of the ice cabinet to accommodate the drainage of ice
19 melt.

20 ~~(iii)-~~

21 ~~(C)~~ Mobile food facilities equipped with a tank supplying
22 product water for the preparation of a food or beverage shall
23 provide an additional wastewater tank capacity equal to at least 15
24 percent of this water supply.

25 ~~(iv)-~~

26 ~~(D)~~ Additional wastewater tank capacity may be required
27 where wastewater production or spillage is likely to occur.

28 ~~(v)-~~

29 ~~(E)~~ Any connection to a wastewater tank shall preclude the
30 possibility of contaminating any food, food-contact surface, or
31 utensil.

32 (4) A mobile food facility's potable water tank inlet shall be
33 provided with a connection of a size and type that will prevent its
34 use for any other service and shall be constructed so that backflow
35 and other contamination of the water supply is prevented. Hoses
36 used to fill potable water tanks shall be made of food grade
37 materials and handled in a sanitary manner.

38 (5) (A) (i) *Except as provided in clause (ii), mobile food*
39 *facilities operating in accordance with subdivision (e) of Section*
40 *114260, shall meet the applicable requirements of Section 114090.*

1 (ii) *The dimensions of each compartment of the utensil washing*
2 *sink shall be at least 12 inches wide, 12 inches long, 10 inches deep*
3 *or large enough to accommodate the cleaning of the largest*
4 *utensil. The drainboards shall be installed with at least one-eighth*
5 *inch per foot slope toward the sink compartment, and fabricated*
6 *with a minimum one-half inch lip or rim to prevent the draining*
7 *liquid from spilling onto the floor.*

8 (iii) *Hand washing facilities and utensil washing sinks shall be*
9 *an integral part of the primary unit or on an approved auxiliary*
10 *conveyance that is used in conjunction with and maintained*
11 *immediately adjacent to the primary unit of the mobile food*
12 *facility. When used in conjunction with a mobile food facility, an*
13 *auxiliary conveyance shall contain all of the utility connections.*

14 (iv) *Notwithstanding clause (iii), at events held within gated*
15 *areas, a remote utensil washing sink compliant with clause (ii)*
16 *shall be sufficient to satisfy the requirements of clause (iii) and*
17 *subdivision (f) of Section 114330, provided it is located within the*
18 *gated area.*

19 (q) *Mobile food facilities selling unpackaged frozen ice cream*
20 *bars or holding cream, milk, or similar dairy products pursuant to*
21 *Section 114270 shall be equipped with refrigeration units as*
22 *described in Section 113860.*

23 (r) *Operators of mobile food facilities handling*
24 *nonprepackaged food shall develop and follow written operational*
25 *procedures for food handling and the cleaning and sanitizing of*
26 *food-contact surfaces and utensils. The enforcement agency shall*
27 *review and approve the procedures prior to implementation and an*
28 *approved copy shall be kept on the mobile food facility during*
29 *periods of operation.*

30 (s) *All potentially hazardous food shall be prepackaged in an*
31 *approved food facility except as provided in Sections 114260 and*
32 *114270.*

33 (t) *Except to the extent that an alternative construction standard*
34 *is explicitly prescribed by this section, construction standards for*
35 *mobile food preparation units and stationary mobile food*
36 *preparation units which are subject to Part 2 (commencing with*
37 *Section 18000) of Division 13 shall be governed by the provisions*
38 *of that part.*

39 (u) *Ground or floor surfaces where cooking processes occur, in*
40 *accordance with Section 114260, shall be impervious, smooth,*

1 *easily cleanable, and shall provide employee safety from slipping.*
2 *Ground or floor surfaces in compliance with this section shall*
3 *extend from beneath the mobile food facility a minimum of five feet*
4 *on the open side or sides of where cooking processes are*
5 *conducted.*

6 *SEC. 3. No reimbursement is required by this act pursuant to*
7 *Section 6 of Article XIII B of the California Constitution because*
8 *the only costs that may be incurred by a local agency or school*
9 *district will be incurred because this act creates a new crime or*
10 *infraction, eliminates a crime or infraction, or changes the penalty*
11 *for a crime or infraction, within the meaning of Section 17556 of*
12 *the Government Code, or changes the definition of a crime within*
13 *the meaning of Section 6 of Article XIII B of the California*
14 *Constitution.*

